

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Scott Fergusson  
Serial No.: 09/917,120  
Filed: July 27, 2001  
For: METHODS AND SYSTEMS FOR ASSISTING FINANCIAL SERVICES FIRMS  
AND THEIR REPRESENTATIVES  
Confirmation No.: 2233

Examiner: Daniel Felten  
Group Art Unit: 3624  
Docket No.: 1137.1101101

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

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Lynn Thompson      July 18, 2006  
Date

Applicants submit that the Examiner's rejections contain at least the following clear errors and/or omissions of one or more essential elements needed for a prima facie rejection.

Claim 1 recites that the first data structure, along with the one or more associated links, are user definable. The Examiner has interpreted "use definable" to mean that the links are customized to the particular user. Applicants respectfully submit that such an interpretation is contrary to the normal and customary usage of the phrase, and contrary to the teachings of the specification. The dictionary definition of "definable" provided on the Merriam-Webster webpage (www.merriam-webster.com) is "able to be defined" or "able to be specified to have a particular function or operation." Applicants submit that one of ordinary skill in the art, upon reading the phrase "user definable" in the claims, would interpret the phrase as meaning the link is able to be defined by the user, which, in the claimed system, would be the representative. Such an interpretation is supported by the specification at, for example, page 3, lines 14-19:

the representative is allowed to create a data structure that has one or more associated links. The data structure can be thought of as a "household" account, although it does not have to be associated with a customer's "household"... The links are preferably defined by the representative (emphasis added).

and at page 13, line 31 through page 14, line 2:

As indicated above, the links are preferably defined by the representative. Once defined and selected, the present invention may display the account items that are within the accounts identified by the one or more links (emphasis added).

Applicants submit that one of ordinary skill in the art, upon reading the instant specification, would interpret the "user definable" links as being defined by the user, not being customized to the customer, as asserted by the Examiner. Applicants submit that the Examiner's interpretation of the claim language is contrary to common usage of the phrase and is contrary to the teachings in the specification and is thus in error.

Neither Kenna nor Buist appear to teach or suggest a data structure having two or more associated links, wherein each link identifies one or more accounts and wherein the data structure, along with the one or more associated links, are user definable, as is recited in independent claim 1. The portion of Buist cited by the Examiner (column 26, lines 38-48) states an "Accounts" balance function 1550 on the function bar, but this function does not appear to be user definable. Rather, the "Accounts" balance function 1550 appears to be a predefined menu option that is offered as part of the Buist system. Also, the particular accounts that are displayed when the "Accounts" balance function 1550 is selected do not appear to be user definable. Rather, it would appear that all of the customer's accounts are displayed when the "Accounts" balance function 1550 is selected, organized by the sort function. As such, for these and other reasons, claim 1 is believed to be clearly patentable over Kenna in view of Buist. For similar and other reasons, dependent claims 2-15 are also believed to be clearly patentable over Kenna in view of Buist, and independent claim 16 and dependent claims 17-23 are also believed to be clearly patentable over Kenna in view of Buist. Notably, the Examiner has not addressed independent claim 16 and dependent claims 17-23 in the Final Office Action.

Regarding the claimed merging capabilities, as recited in independent claim 24, the Examiner asserts this is notoriously old and well known within the computer art. The Examiner then asserts that it would have been obvious to utilize the notoriously old and well known merging technology within the teaching of Kenna and Buist, and thus the rejections using Kenna

and Buist are maintained. Applicants wish to point out that independent claim 24 was included in the rejection in the previous Office Action, but the claim was not addressed in the body of the rejection. Applicants requested that if the rejection was maintained, a prima facie case of obviousness be fully set forth. In the final Office Action, the Examiner for the first time provided an obviousness statement of what appears to be related to claim 24, without a discussion of where in either reference the elements of claim 24 could be found, and then asserted that the rejections using Kenna and Buist were maintained. Applicants submit that as no details of the rejection of claim 24 were provided in the previous Office Action, the maintenance of the rejection and finality of the Final Office Action is in error.

Additionally neither Kenna or Buist appear to disclose the method recited in claim 24. For example, neither Kenna or Buist appear to teach, disclose or suggest the steps of: (1) operating a financial services computer program that aids financial service professionals in servicing customers, wherein the financial services computer program can access the database, and wherein the two or more fields of each database entry containing customer information; (2) providing a query or expression to the financial services computer program; (3) identifying the database entries that have one or more fields with a field value that matches a selected query or expression; and (4) outputting a formatted output that includes the field value of a selected field of each database entry identified by the identifying step, wherein the formatted output is formatted as a merge document that can be read by the computer program with the merge capability. The Examiner has not indicated, in either of the Office Actions mailed December 5, 2005 or May 18, 2006, where in the Kenna or Buist references such method steps are taught or suggested. As such, Applicants submit that the rejection is in error for at least failing to clearly set forth a prima facie case of obviousness. For similar and other reasons, dependent claims 25-33, and independent claims 34-35 as well as dependent claims 48-49, are also believed to be clearly patentable over Kenna in view of Buist.

With regard to independent claims 34-37, 41, 42, and 50, Applicants provided substantial arguments in the previous response (Please see pages 15-19 of the Amendment filed March 3, 2006). Applicants specifically requested the Examiner specifically point out where in Kenna or Buist the

claimed steps are taught or suggested, as well as any motivation for combining the teachings. In the final Office Action, the Examiner did not address those arguments, merely stating that the rejections using Kenna and Buist are maintained.

MPEP § 707.07(f) states,

In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application...Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

Applicants submit that the Examiner's maintenance of the rejections and lack of response to arguments is in error. Further, in attempting to prepare an Appeal Brief, Applicants would be in the position of drafting arguments to a generic rejection of independent claims 34-37, 41, 42, and 50 as being obvious over Kenna and Buist without any indication of the specific basis for the rejection. Applicants submit the rejection is improperly maintained.

Specifically with respect to at least independent claims 34, 36, 37, and 41, the Examiner only points to a portion of Buist without further explanation of the rejection and without providing any reasoning for combining the Kenna and Buist references. Independent claim 35 does not appear to be addressed at all in the previous Office Action or the Final Office Action. Applicants are thus left unsure of the basis of the rejection. Applicants have reviewed the portions of Buist referred to by the Examiner, and have not found a teaching or suggestion of each and every element of the claims.

Regarding independent claim 42, the Examiner asserts Buist teaches storing account information and a browser program to provide a customer with account information. However, claim 42 recites a system including a display means for displaying on a single screen or window, or multiple screens or windows simultaneously, selected investment objectives and selected documented customer contacts for a selected account. Neither Kenna nor Buist appears to teach or suggest such a system. Thus, a combination of Kenna and Buist also fails to teach or suggest each and every element of the claims. For these and other reasons, claim 42 is believed to be clearly patentable over Kenna in view of Buist. For similar and other reasons, dependent claims

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43-47 are also believed to be clearly patentable over Kenna in view if Buist.

Regarding independent claim 50, the Examiner only asserts that Buist teaches a combination of or related account items. Claim 50 recites a system including combining means for combining one or more related account items from the more than one accounts before the display means displays the selected account items, wherein the combining means sums at least some of the related account items. Buist appears to teach displaying a number of account items on a common screen. However no teaching has been found of a combining means that sums at least some of the related account items, as is recited in claim 50.

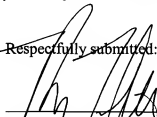
Finally, in paragraph 2 on page 2 of the final Office Action, the Examiner states that Applicant's amendment necessitated the new grounds of rejection. However, the Office Action does not appear to provide any new grounds of rejection. Further, in light of the fact that the previous Office Action stated a rejection based only on Kenna, but the Buist reference is mentioned in the body of the rejection, the exact rejections and references involved are unclear. Applicants submit that maintaining such unclear rejections and making the current Office Action final are improper. In drafting an Appeal Brief, Applicants would not know for sure what rejections are being maintained, and what, if any, new grounds of rejection have been made.

Applicants submit that the Examiner has not provided reasoned statements of asserted obviousness for at least the independent claims and has not indicated where in the references such teachings can be found, as is required by MPEP § 2142. Maintaining the rejections thus appears to be in error.

Respectfully submitted:

Dated:

July 18, 2006

  
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